

## REMARKS

This communication responds to the Examiner's Answer mailed December 9, 2008 (hereinafter "the Examiner's Answer") and is submitted with a request to reopen prosecution before the primary examiner in accordance with the provisions of 37 CFR 41.39 (b)(1).

Claims 1, 22 and 42 are amended, no claims are canceled, and no claims are added in this communication. As a result, claims 1-11, 14-17, 21-29 and 31-59 are now pending in this Application.

### §101 Rejection of the Claims

Claims 1-11, 21-27 and 42-47 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Examiner has rejected that the claims on the basis that a claimed method must either: (1) be tied to another statutory class, or (2) transform underlying subject matter. The Examiner asserts, "*Here, applicant's method step fails the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be preformed without the use of a particular apparatus. In the current claims, characteristics are associated with users and a rating is derived from these characteristics. There is no other statutory class tied to the associating and deriving of the claims. Therefore, it is respectfully submitted that the claims are directed to non-statutory subject matter.*"

The Applicant has amended independent claims 1, 22 and 42. For example, amended independent claim 1 reads as follows:

1. A computer-implemented method, comprising:  
associating, by a first processor, one or more characteristic values with each user of a plurality of users of an online trading community, the one or more characteristic values representing an individual rating associated with each user; [[and]]  
deriving, by a second processor, a community rating uniquely corresponding to a particular user by aggregating the one or more characteristic values associated with the particular user and the one or more characteristic values associated with one or more users referred by the particular user to the online trading community; and  
storing the community rating uniquely corresponding to the particular user

in a storage device.

Amended independent claim 1 recites another statutory class to which it is tied by identifying, for example, “**a first processor**”, “**a second processor**” and “**a storage device**” that accomplish the method steps. Therefore, amended independent claim 1 (as well as its dependent claims) meets at least the first prong of the machine-or-transformation test. This argument presented with respect to amended independent claim 1 also applies to amended independent claims 22 and 42 (as well as their dependent claims), which have similar limitations to amended independent claim 1.

Reconsideration and withdrawal of the §101 rejection of claims 1-11, 21-27 and 42-47 are thus respectfully requested.

§102 Rejection of the Claims

Claims 1-8, 11, 14-17, 21-29, 31-32, 40-45, 47 and 55-58 were rejected under 35 U.S.C. § 102(e) for anticipation by Epinions.com (hereinafter, “Epinions”).

Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053, (Fed. Cir. 1987). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, “[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Contrary to the Examiner’s assertion in the Examiner’s Answer, the Applicant respectfully maintains that Epinions fails to show the claim limitation of the rejected independent claims, which requires “aggregating one or more characteristic values associated with the particular user and one or more characteristic values associated with users referred by the particular user to the online trading community”, for the reasons stated below.

(1). The Applicant respectfully points out that the “**trusted users**” of Epinions are not the “**users referred by the particular user to the online trading community**” as claimed in the rejected independent claims.

The Application provides a mechanism to provide an incentive for bringing new users into the electronic community. Referring to the Specification, page 6, lines 15-18,

“For example, a user’s Community Rating may be represented by the sum of the user’s Feedback Rating, the number of users the user has **referred to the online trading community**, and the Community Ratings of all users **referred**.<sup>1</sup>”  
(Emphasis added).

Referring also to the Abstract of the Application,

“Community ratings are determined for users of an electronic marketplace. In a typical configuration, the community rating of an individual reflect the individual’s reputation in the electronic community (e.g. feedback rating) as well as the reputations of the users the individual **sponsors** and the reputations of each user they **sponsor**, and so on. Various methodologies are provided for determining a community rating, such as aggregating feedback ratings, or weighting or thresholding these feedback ratings.” (Emphasis added).

It is thus noted that, when deriving a community rating for a particular user, the Application aggregates the characteristic values (e.g., the reputations) of the particular user and the characteristic values (e.g., the reputations) of the users referred to (brought to) the online trading community by the particular user.

In contrast, Epinions relates to a web site configured to allow users to present reviews of products to other users of Epinions. Optionally, those other users may provide a response indicating he/she trusts the originator of the review and may also indicate an approval level of the individual reviews themselves (e.g., “very useful”). A user’s page displays who the user trusts and who trusts the user (see reference, page 9). The “web of trust” created extends only to those users that have made direct contact with the “trusted” user’s opinions and vice versa. Thus, it can be seen that the “**trusted users**” of Epinions are not the “**users referred by the particular user to the online trading community**” as claimed in rejected independent claims.

Merriam-Webster's online dictionary defines "**referral, referred**" as, "**to send or direct** for treatment, aid, information, or decision <*refer a patient to a specialist*>..." (<http://www.m-w.com/dictionary/referring>, emphasis added). In Epinions, there is nothing to suggest that a user, such as Bonies7 (page 10), has referred, sent, or directed any other users to the Epinions "community." Merely "backing" another user by providing feedback on his/her review is clearly not a referral (referred) as plainly defined by Merriam-Webster's dictionary.

In the "response to arguments 1) and 2)" part of the Examiner's Answer on page 19, the Examiner states,

"The claims recite 'one or more users referred by the particular user to the online trading community'. To refer, based on the broadest reasonable interpretation of the term, is to direct to or **to make mention or reference**. In Epinions, users are 'referred' by a particular user to the community of the user in that the particular user **references and mentions** other users as a user that the particular user trusts (such as shown on page 9). This link or relationship directs the user to the overall or group and the particular user makes reference to the user or users. In this way, the user is linked to the particular user and thus **referred or directed to the community by the particular user**."  
(Emphasis added)

The Examiner appears to indicate that the "**trusted users**" of a particular user of Epinions are the users referred or directed to the online trading community by the particular user. The Applicant disagrees, and submits that, in Epinions, the other users mentioned "as a user that the particular user trusts" are not the "**users referred by the particular user to the online trading community**", as claimed in the rejected independent claims.

The Applicant's claimed invention and the Epinions mechanism are for different purposes and adopt different approaches. The "**trusted users**" (other users mentioned "as a user that the particular user trusts") of Epinions are merely users who provide responses to a review of products made by an originator and indicate their trust in the originator of the review. The "**trusted users**" of the particular user of Epinions are not equal to the users in the rejected independent claims which were **referred to** (brought into, or sponsored in) the online trading community by the particular user, because Epinions does not show that the "**trusted users**" were

brought into the community by the particular user, and it is possible for the “**trusted user**” to have been brought into the Epinions’ community by someone other than the particular user.

The Applicant respectfully disagrees with the interpretation of “referred” in the Examiner’s Answer. From Merriam-Webster’s online dictionary, as mentioned above, and the context throughout the present Application, it can be seen that “users referred by the particular user to the online trading community” of the claimed Application indicate users who are brought into the online trading community, rather than those users who are merely mentioned by the particular user “as a user that the particular user trusts”, as indicated by the Examiner. The Applicant’s claimed invention and Epinions are for different purposes and adopt different approaches. For example, the Applicant’s claimed invention provides an incentive for bringing new users into the electronic community, and encourages existing members to refer new members thereby increasing community registrations and the pool of potential trading partners. See the Specification, page 6, lines 8-20, and the Abstract. In contrary, in Epinions, it is possible that a user who is mentioned as a “**trusted user**” by a particular user has already registered in the community by himself/herself, or has been brought into the community by someone other than the particular user.

In short, the Applicant submits that Epinions does not disclose the limitation of “**users referred by the particular user to the online trading community**” as claimed in rejected independent claims.

(2). The Applicant respectfully maintains that Epinions does not discloses the limitation “**aggregating ..... characteristic values associated with one or more users referred by the particular user to the online trading community**” as required in the rejected independent claims.

Epinions neither uses nor takes into account **characteristic values of the “trusted users”** when deriving the particular user’s community rating. Further, as argued previously, the “**trusted users**” of the particular user of Epinions are not the same as the “**users referred by the particular user to the online trading community**” as claimed in the rejected independent claims. Thus, the Applicant maintains that Epinions does not disclose deriving a community rating for a particular user by **aggregating** the one or more characteristic values associated with

the particular user **and the one or more characteristic values associated with one or more users referred by the particular user to the online trading community.**

In the “response to arguments 3) and 4)” part of the Examiner’s Answer on page 18, the Examiner states,

“Epinions.com obtains at least one rating for the particular user based on the responses of the community to that specific user, the responses of the specific user to other members of the community, and the specific user’s interaction with the community ..... The system also combines into the rating if the specific user is considered an expert by using the opinion of the specific user (the quality and quantity of the particular user’s opinions), the particular user’s rating (backing) of other users’ review, and the other users’ reviews of the particular user’s ratings.”

However, the Examiner does not point out and the Applicant cannot find any parts of Epinions that disclose the community rating of a particular user has any relevance with the community rating of the “**trusted users**” of the particular user. Nothing mentioned above in the Examiner’s Answer shows that, when determining the community rating of a particular user, the Epinions mechanism cares about the characteristic values (e.g., community rating) of the “**trusted users**” of the particular user.

Accordingly, the Examiner is incorrect in concluding that Epinions discloses the limitation “**aggregating the one or more characteristic values associated with the particular user and the one or more characteristic values associated with one or more users referred by the particular user to the online trading community**” as required in the rejected independent claims.

Therefore, for at least the above reasons, independent claims 14, 22, 28, 40, 42, and 55 (as well as their dependent claims) are not anticipated by Epinions. Reconsideration and withdrawal of the §102(e) rejection of claims 1-8, 11, 14-17, 21-29, 31-32, 40-45, 47 and 55-58 are thus respectfully requested.

#### §103 Rejection of the Claims

Claims 33-39, 48-51 and 53-54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Epinions.com (hereinafter, “Epinions”).

Claims 9-10, 46, 52 and 59 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Epinions.com in view of Aho et al. (*Data Structures and Algorithms*) (hereinafter, “Aho”). Epinions alone or in combination with Aho does not teach or suggest each and every element of the rejected claims.

Adding what the Examiner asserts is taught in Aho or what was known in the art at the time of invention to Epinions fails to cure the previously mentioned defects of Epinions. Epinions whether alone or in view of Aho fails to render the present claims obvious.

Aho discusses “trees” representing a hierachal structure (e.g., nodes, circuits, etc., see Aho reference sheet 5). However, neither Aho nor what was known in the art discloses, “associating one or more characteristic values with each user of a plurality of users of an online trading community, the one or more characteristic values representing an individual rating associated with each user; and deriving a community rating uniquely corresponding to a particular user by aggregating the one or more characteristic values associated with the particular user and the one or more characteristic values associated with one or more users referred by the particular user to the online trading community”, as recited in rejected independent claim 1 for example.

Because independent claims 33 and 48 have substantially similar limitations to independent claim 1 and dependent claims 9-10, 46, 52 and 59 depend on independent claims with substantially similar limitations to claim 1 as discussed above, most if not all the arguments that applied to claim 1 with respect to Epinions also applies to these independent claims and their associated dependent claims. Consequently, these claims are patentable over Epinions alone or in combination with Aho.

Reconsideration and withdrawal of the §103(a) rejection of claims 9-10, 33-39, 46, 48-54 and 59 are thus respectfully requested.

### CONCLUSION

The Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone the Applicants' attorney 408-278-4045 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 9 day of February, 2009

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